

**ST 00-17**

**Tax Type: Sales Tax**

**Issue: Reasonable Cause on Application of Penalties**

**DEPARTMENT OF REVENUE  
STATE OF ILLINOIS  
OFFICE OF ADMINISTRATIVE HEARINGS  
CHICAGO, ILLINOIS**

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<b>DEPARTMENT OF REVENUE</b>	) 99 ST
<b>STATE OF ILLINOIS</b>	)
	) NOA
v.	)
	) Mimi Brin
<b>JANE DOE</b>	) Administrative Law Judge

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**RECOMMENDATION FOR DISPOSITION**

**Appearances:** Rosario A. Picone, Jr. on behalf of JANE DOE; Shepard K. Smith, Special Assistant Attorney General, on behalf of the Illinois Department of Revenue

**Synopsis:**

This matter comes on for hearing pursuant to the taxpayer's protest and request for hearing regarding Notice of Assessment number XXXXXXXX ("NOD") issued to JANE DOE ("DOE" or "taxpayer") by the Illinois Department of Revenue ("Department") for late filing and late payment penalties concerning her filing of Form RUT-25, Motor Vehicle Use Tax Transaction Return. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the taxpayer, and in support of that recommendation, I make the following findings of fact and conclusions of law:

**Findings of Fact:**

1. The Department issued NOA XXXXX to DOE on August 13, 1999 for a late filing penalty and a late payment penalty regarding her filing and

payment of motor vehicle use tax on an automobile she bought outside of Illinois, but brought into Illinois on March 26, 1998. Department Ex. No.

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2. The amount of motor vehicle use tax due on the automobile was \$870.00, however, DOE paid the State \$904.00, an acknowledged overpayment. Tr. p. 17 (statement by Department counsel, Smith)

3. DOE filed the motor vehicle use tax return, and paid the amount due to the State, late. Tr. p. 5 (statement of DOE counsel, Picone); Department Ex. No. 1

**Conclusions of Law:**

The Illinois Vehicle Code, 625 ILCS 5/1-101 *et seq.*, imposes a tax “on the privilege of using, in this State, any motor vehicle...acquired by gift, transfer, or purchase... .” *Id.* at 5/3-1001 Further, “the purchaser shall file a return signed by the purchaser with the Department of Revenue on a form prescribed by the Department.” *Id.* at 5/3-1002 DOE concedes that she filed the requisite return and paid the amount due, late. However, she requested the abatement of the penalties due to reasonable cause and at hearing proceeded to advise of the conditions warranting such an abatement.

DOE presented as a very credible witness. Her averments that she did not have the funds necessary to purchase the automobile in the first instance was supported by evidence that her parents provided her with those funds. She provided credible and documentary evidence that she had not made a purchase of this type before, that she paid tax to the Cook County and was unaware that she needed to pay anything further, and, that as soon as she was made aware of the tax, she borrowed money, again from her

parents, to pay the amount due. In fact, as conceded by the Department, she overpaid the tax due. Based upon this evidence, and other evidence of the totality of the circumstances of her domestic life at the time of the purchase, it is reasonable to abate the penalties.

**WHEREFORE**, for the reasons stated above, it is my recommendation that the penalties assessed in the Notice of Assessment at issue, be abated.

5/22/00

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Mimi Brin  
Administrative Law Judge